



Human Resources Committee

August 10, 2016

Anaheim, CA

Today is all about

NEW

WAGE & HOUR

LAWS



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

The New Federal Overtime Exemption Standards



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Federal Overtime Exemptions

“White Collar” Exemptions

Complete Exemptions – FLSA 13(a)(1)

- Executive
- ~~Administrative~~
- ~~Professional~~
- ~~Outside Sales~~



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Federal Overtime Exemptions

The Executive Exemption

Must satisfy both

- Duties test

AND

- Salary test



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Federal Overtime Exemptions

The Executive Exemption

Duties test

- “Primary duty” must be management, AND
- Customarily and regularly direct two or more other workers, AND
- Authority to hire or fire other employees, or make suggestions on employee status that are given particular weight



Federal Overtime Exemptions

The Executive Exemption

Salary test

Currently - \$455 a week

(\$23,600 annually)

December 1, 2016 -- \$913 a week

(\$47,476 annually)



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Federal Overtime Exemptions

The Executive Exemption

Do I really have to double salaries?!

Of course not!



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Federal Overtime Exemptions

The Executive Exemption

Let's do some math....

Exempt Manager makes \$30k year.

You can keep that Manager as
“exempt,” but you'd need to raise
the salary to at least \$46,476/yr



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Federal Overtime Exemptions

The Executive Exemption

Let's do some math....

Let's presume that "exempt"

Manager works 50 hours a week...

At \$30k/yr...that works out to
roughly \$10.50/hr

($2080st * 10.50/hr = \$21,840$ and $520ot * \$15.75 = \$8,190$ for a total annual income of \$30,030)



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Federal Overtime Exemptions

The Executive Exemption

Let's do some math....

You can change that Manager's Pay Plan from
Exempt/Salary to Hourly!

As long as they continue to work
the same number of hours, they will make the
same annual income!

(Yes, you need to manage the OT hours!!)



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Federal Overtime Exemptions

The Executive Exemption

California Application/Comparison

FLSA

Salary Test = 12/1/16 going to \$47,476/yr

California

Salary Test = Fixed Salary of at least 2x Min Wage based on a 40 hour workweek (currently \$41,600/yr)

CA Min Wage will need to reach \$11.42/hr before it catches up to the new FLSA requirement (January 1, 2019/20 - \$12.00)



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

The Push for \$15!!!



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Minimum Wage Increases

State and Local Ordinances

Why does a
minimum wage increase
make a difference????



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Minimum Wage Increases

State and Local Ordinances

- FLSA 7(i) Commissioned Employee Exemption
 - Retail Establishment
 - More than ½ income from “commissions” (“flat rate” counts)
 - Make at least 1½ times Minimum Wage for all hours worked!



Minimum Wage Increases

State and Local Ordinances

- **CALIFORNIA**
 - No “7(i)” exemption!
 - The “2x Tool Rule” DOES NOT use the “local” Minimum Wage Rate!
 - Are you using the “Orange Toolbox” Program?
 - Remember FLAT RATE IS DEAD!!!!



California Min. Wage Issue

AB1513

Codified *DTLA Motors & Bluford!!!*

- If paying “piece-rate” (i.e., flat/flag rate):
 - Must pay separately for **non-productive** time
 - Must track and show on pay stub the:
 - Non-productive hours (*impossible to do!*)
 - Rate at which you are paying for those hours
 - Gross wages for non-productive time
 - Separately paying min wage for all hours worked is considered compliant and no pay stub changes.



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

California Min. Wage Issue

AB1513

Codified *DTLA Motors & Bluford!!!*

- If paying “piece-rate” (i.e., flat/flag rate):
 - Must pay separately for **rest period** time
 - Must track and show on pay stub the:
 - Rest period hours
 - Rate at which you are paying for those hours (greater of Min. Wage OR “Regular Rate”)
 - Gross wages for rest period time



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

California Min. Wage Issue

AB1513

What is the Rest Period “Regular Rate”?

- Rest Periods must be paid at the GREATER of the applicable minimum wage (Tool Rule?) OR the average hourly rate for all hours worked, excluding rest periods.
- The calculation:
 - Total Compensation for the Workweek, not including overtime or compensation earned for rest periods
DIVIDED BY
 - Total clock hours worked, not including rest periods



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee

Thank You!

Human Resources
Committee

Cory King

cking@employerlawyers.com



COLLISION INDUSTRY
CONFERENCE

AUG 2016

Human Resources Committee